



MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN
TWENTY-NINTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

FILE COPY

December 31, 2008

The Honorable Felix P. Camacho
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 31(ÉC), 253(EC), 256(EC), 370(LS), 371(LS), 379(EC), 390(LS), 394(LS), & 403(LS); and Substitute Bill Nos. 225(LS), 248(LS), 305(EC), 314(EC), 368(LS), 389(LS) & 397(EC) which were passed by *I Mina'Bente Nuebi Na Liheslaturan Guåhan* on December 30, 2008.

Sincerely,

TINA ROSE MUNA BARNES
Senator and Secretary of the Legislature

Enclosures (16)

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I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Substitute Bill No. 305 (EC), "AN ACT TO AMEND §66210, SUBPARAGRAPH (7) OF §71101 AND §71105 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO THE PLACING OF UTILITIES ON PUBLIC EASEMENTS,"** was on the 30th day of December, 2008, duly and regularly passed.



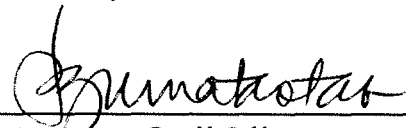
Judith T. Won Pat, Ed. D.
Speaker

Attested:



Tina Rose Muña Barnes
Senator and Secretary of the Legislature

This Act was received by *I Maga'lahaen Guåhan* this 31 day of Dec., 2008, at 3:10 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

Bill No. 305 (EC)

As substituted by the Committee on
Judiciary, Natural Resources, Infrastructure
And Cultural Affairs.

Introduced by:

v.c. pangelinan
Frank F. Blas, Jr.
Edward J.B. Calvo
B. J.F. Cruz
James V. Espaldon
Mark Forbes
Judith P. Guthertz, DPA
Frank T. Ishizaki
J. A. Lujan
Tina Rose Muña Barnes
A. B. Palacios, Sr.
R. J. Respicio
Dr. David L.G. Shimizu
Ray Tenorio
J. T. Won Pat, Ed.D.

**AN ACT TO *AMEND* §66210, SUBPARAGRAPH (7) OF §71101
AND §71105 OF TITLE 21, GUAM CODE ANNOTATED,
RELATIVE TO THE PLACING OF UTILITIES ON PUBLIC
EASEMENTS.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that roadwork and other excavations throughout the island have in many instances
4 led to the needless damage of utilities. The damage caused creates problems
5 oftentimes affecting customers with telephone, communications, video, internet,
6 water, *or* power services. *I Liheslatura* further finds that these damages could have

1 been minimized *or* entirely prevented. While current law requires the location of
2 all underground utilities that would be affected to be identified prior to the start of
3 such projects as excavations, most times the approved plans are changed to reflect
4 actual field conditions. The requirement to submit as built plans at the completion
5 of the project would provide greater accuracy in identifying the field placement of
6 the infrastructure. These drawings will provide the exact field location of
7 underground facilities and lines and give better guidance for future projects.

8 It is, therefore, the intent of *I Liheslatura* to require an as built drawing to be
9 submitted to the Department of Public Works upon the completion of any
10 placement of underground facilities and lines on public easements.

11 **Section 2.** §66210 of Chapter 66, Title 21, Guam Code Annotated, is hereby
12 *amended* to read as follows:

13 **“§66210. Approved Plans: Changes Prohibited.** Approved plans
14 and specifications *shall not* be changed, modified *or* altered in any manner
15 affected by the provisions of this *or* other applicable laws, without express
16 written authorization from the building official, and all work *shall* be done in
17 accordance with the approved plans and specifications.

18 In the event that field conditions require variations to permitted
19 specifications *or* plot layout for ongoing and future projects affecting
20 underground facilities on public easements, permittee *shall* maintain and file
21 an *as built* drawing with the Department of Public Works within thirty (30)
22 days of completion of the work. Failure to file *as built* drawing *shall* waive
23 the permittee’s *or* operator’s right to recover from a subsequent contractor for
24 any damage to the underground facilities pursuant to Chapter 71 of Title 21,
25 Guam Code Annotated.”

26 **Section 3.** §71105 of Chapter 71, Title 21, Guam Code Annotated, is hereby
27 *amended* to read:

1 **“§71105. Response to Notice of Intent to Excavate *or* Demolish.**

2 (a) Each operator notified in accordance with §71104 of this Chapter,
3 *shall, not less than* five (5) working days in advance of the proposed
4 excavation or demolition (unless a shorter period is provided by agreement
5 between the person responsible for the excavation *or* demolition and the
6 operation), supply, by use of maps when appropriate, the following
7 information to the person responsible for the excavation or demolition:

8 (1) The approximate location and description of all of its
9 underground utilities which may be damaged as a result of the
10 excavation *or* demolition, including as built drawings of the utilities
11 *or* underground facilities maintained by the operator filed at the
12 Department of Public Works in accordance with §66210 of Title 21,
13 Guam Code Annotated, *if* available.

14 (2) The location and description of all utility markers indicating the
15 approximate location of the underground utilities.

16 (3) Any other information that would assist that person in locating
17 and thereby avoiding damage to the underground utilities including,
18 the provision of adequate temporary markings indicating the
19 approximate location of the underground utility in locations where
20 permanent utility markers do *not* exist.

21 (b) For purposes of this Section, the approximate location of underground
22 utilities is defined as a strip of land at least three (3) feet wide but *not* wider
23 than the width of the utility plus 1.5 feet on either side of the utility.

24 (c) Failure by the operator to maintain and provide information described
25 in subsection (a) above *as built* drawings from Department of Public Works’
26 *or* its own records existing prior to the excavation *or* demolition, *shall*
27 preclude operator from recovering for repair of damages to underground

1 utilities, facilities, *or* lines as provided for in Chapter 71.”

2 (d) The operator *shall not* be liable for repair of damages to underground
3 utilities, facilities, *or* lines when it is determined that the damages occurred
4 within an area cleared by the information described in (a) above.”

5 **Section 4.** §71101, Subparagraph (7) of Title 21, Guam Code Annotated, is
6 hereby *amended* to read:

7 “(7) *Operator* means any person, individual, governmental agency *or*
8 their agents, joint venture, firm, partnership, association, *or* corporation who
9 owns *or* operates, a public *or* private underground facility *or* utility which
10 furnishes a service *or* material *or* stores, transports, *or* transmits an
11 electronic communication system, telecommunications system, *or* fiber
12 optic, electricity, oil, natural gas, gases, steam, mixture of gases, petroleum,
13 petroleum products, flammable fluids, *or* other substances of like nature *or*
14 water *or* water systems, sewer systems *or* traffic, drainage control systems,
15 *or* other items of like nature.

16 *Operator* also means the entities responsible for operating the public
17 utilities of Guam specifically Guam Power Authority, Guam Waterworks
18 Authority and the incumbent local exchange carrier as defined by §12102(e),
19 Title 12, Guam Code Annotated.”

20 **Section 5. Severability.** *If* any of the provisions of this Act or the
21 application thereof to any person or circumstance is held invalid, such invalidity
22 shall *not* affect any other provision or application of this Act which can be given
23 effect without the invalid provision or application, and to this end the provisions of
24 this Act are severable.